

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RAILCAR MANAGEMENT, LLC,

Plaintiff,

v.

CEDAR AI, INC., MARIO PONTICELLO,
DARIL VILHENA, and JOHN DOES 1 through
10, inclusive,

Defendants.

Case No. 2:21-cv-00437-TSZ

**STIPULATED PROTECTIVE
ORDER**

CEDAR AI, INC.,

Counterclaim-Plaintiff,

v.

RAILCAR MANAGEMENT, LLC,
GE TRANSPORTATION, WABTEC
CORPORATION,

Counterclaim and Third-Party
Defendants.

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the Parties hereby

1 stipulate to and petition the court to enter the following Stipulated Protective Order. The Parties
 2 acknowledge that this Stipulated Protective Order is consistent with LCR 26(c). It does not confer
 3 blanket protection on all disclosures or responses to discovery, the protection it affords from public
 4 disclosure and use extends only to the limited information or items that are entitled to confidential
 5 treatment under the applicable legal principles, and it does not presumptively entitle Parties to file
 6 confidential information under seal.

7 **2. DEFINITIONS**

8 **2.1 Challenging Party:** a Party or Non-Party that challenges the designation of
 9 information or items under this Order.

10 **2.2 “CONFIDENTIAL” Information or Items:** “CONFIDENTIAL” information or
 11 material shall include the following documents and tangible things produced or otherwise
 12 exchanged: (a) information prohibited from disclosure by statute; (b) research, technical,
 13 commercial, or financial information that the Party has maintained as confidential; (c) medical
 14 information concerning any individual; (d) personal identifying information; (e) income tax returns
 15 (including attached schedules and forms), W-2 forms and 1099 forms; or (f) personal or
 16 employment records of a person who is not a Party to the case.

17 **2.3 Designating Party:** a Party or Non-Party that designates information or items that it
 18 produces in disclosures or in responses to discovery as “CONFIDENTIAL” or “HIGHLY
 19 CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

20 **2.4 Disclosure or Discovery Material:** all items or information, regardless of the
 21 medium or manner in which it is generated, stored, or maintained (including, among other things,
 22 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
 23 responses to discovery in this matter.

24 **2.5 Expert:** a person with specialized knowledge or experience in a matter pertinent to
 25 the litigation who (1) has been retained by a Party or its counsel to serve as an expert witness or as
 26

1 a consultant in this action, and (2) is not a past, current, or anticipated employee, independent
 2 contractor of a Party or of a Party's competitor.

3 2.6 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" Information or
 4 Items: "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" information or material
 5 shall include documents and tangible things produced or otherwise exchanged that contain
 6 extremely sensitive "Confidential Information or Items," disclosure of which to another Party or
 7 Non-Party would create a substantial risk of serious harm that could not be avoided by less
 8 restrictive means. By way of example only, "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES
 9 ONLY" information includes: (a) information that reveals trade secrets; (b) competitively sensitive
 10 information such as non-public proposed or actual pricing or other contract or sales terms; (c)
 11 financial, marketing, or strategic business planning information; (d) sensitive and non-public
 12 research or analysis; (e) non-public customer information; or (f) information relating to research,
 13 development, testing of, or plans for existing or proposed future products.

14 2.7 Non-Party: any natural person, partnership, corporation, association, or other legal
 15 entity not named as a Party to this action.

16 2.8 Outside Counsel of Record: attorneys who are not employees of a Party to this
 17 action, but are retained to represent or advise a Party to this action and have appeared in this action
 18 on behalf of that Party or are affiliated with a law firm which has appeared on behalf of that Party.

19 2.9 Party: any party to this action, including all of its officers, directors, employees,
 20 consultants, retained experts, and Outside Counsel of Record (and their support staff).

21 2.10 Producing Party: a Party or Non-Party that produces Disclosure or Discovery
 22 Material in this action.

23 2.11 Protected Material: any Disclosure or Discovery Material that is designated as
 24 "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

25 2.12 Receiving Party: a Party that receives Disclosure or Discovery Material from a
 26 Producing Party.

1 3. SCOPE

2 The protections conferred by this Stipulated Protective Order cover not only Protected
3 Material (as defined above), but also (1) any information copied or extracted from Protected
4 Material; (2) all copies, excerpts, summaries, or compilations of Protected Material; and (3) any
5 testimony, conversations, communications, discovery responses, or presentations by Parties or their
6 counsel that might reveal Protected Material.

7 However, the protections conferred by this Stipulated Protective Order do not cover
8 information that is in the public domain or becomes part of the public domain through trial or
9 otherwise.

10 4. DURATION

11 Even after final disposition of this litigation, the confidentiality obligations imposed by this
12 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
13 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims and
14 defenses in this action, with or (if not re-filed by the deadline) without prejudice; and (2) final
15 judgment herein after the completion and exhaustion of all appeals, rehearings, remands, trials, or
16 reviews of this action, including the time limits for filing any motions or applications for extension
17 of time pursuant to applicable law.

18 5. ACCESS TO AND USE OF PROTECTED MATERIAL

19 5.1 Basic Principles. A Receiving Party may use Protected Material that is disclosed or
20 produced by another Party or by a Non-Party in connection with this case only for prosecuting,
21 defending, or attempting to settle this litigation. Protected Material may be disclosed only to the
22 categories of persons and under the conditions described in this Stipulated Protective Order.
23 Protected Material must be stored and maintained by a Receiving Party at a location and in a secure
24 manner that ensures that access is limited to the persons authorized under this Stipulated Protective
25 Order.

1 5.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
2 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any
3 information or item designated “CONFIDENTIAL” only to:

4 (a) the Receiving Party’s Outside Counsel Of Record in this action, as well as
5 employees of counsel to whom it is reasonably necessary to disclose the information for this
6 litigation;

7 (b) the officers, directors, and employees of the Receiving Party to whom
8 disclosure is reasonably necessary for this litigation and who have signed the “Acknowledgment
9 and Agreement to Be Bound” (Exhibit A);

10 (c) Experts (as defined in this Order), as well as their staff, of the Receiving
11 Party to whom disclosure is reasonably necessary for this litigation and who have signed the
12 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (d) the court, court personnel, and court reporters and their staff;

14 (e) mediators and their staff who are engaged in mediation or alternative dispute
15 resolution with the Parties and who have signed the “Acknowledgment and Agreement to be
16 Bound” (Exhibit A);

17 (f) persons or entities that provide litigation support services retained by a Party
18 or a Party’s Outside Counsel Of Record, including but not limited to professional jury or trial
19 consultants, mock jurors, and copy or imaging services retained by counsel to assist in the
20 duplication of Protected Material, to whom disclosure is reasonably necessary for this litigation and
21 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), provided that
22 the Party or Outside Counsel of Record for the Party retaining the copy or imaging service instructs
23 the service not to disclose any Protected Material to third parties and to immediately return all
24 originals and copies of any Protected Material;

25 (g) during their depositions, witnesses in the action to whom disclosure is
26 reasonably necessary and who have signed the “Acknowledgment and Agreement to Be Bound”

(Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be separately bound, and for electronic versions, segregated, by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order;

(h) the author, addressees, or recipients of a document containing the information or a custodian or other person who otherwise possessed, would have likely reviewed, or knew the information, or who is specifically identified in the document.

5.3 Disclosure of “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” only to:

(a) the Receiving Party’s Outside Counsel of Record in this action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this litigation;

(b) Experts (as defined in this Order), as well as their staff, of the Receiving Party (1) to whom disclosure is reasonably necessary for this litigation (2) who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), and (3) as to whom the procedures set forth in paragraph 5.4, below, have been followed;

(c) the court, court personnel, and court reporters and their staff;

(d) mediators and their staff who are engaged in mediation or alternative dispute resolution with the Parties and who have signed the “Acknowledgment and Agreement to be Bound” (Exhibit A);

(e) persons or entities that provide litigation support services retained by a Party or a Party’s Outside Counsel of Record, including but not limited to professional jury or trial consultants, mock jurors, and copy or imaging services retained by counsel to assist in the duplication of Protected Material, to whom disclosure is reasonably necessary for this litigation and

1 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A), provided that
 2 the Party or Outside Counsel of Record for the Party retaining the copy or imaging service instructs
 3 the service not to disclose any Protected Material to third parties and to immediately return all
 4 originals and copies of any Protected Material;

5 (f) the author, addressees, or recipients of a document containing the
 6 information or a custodian or other person who otherwise possessed or knew the information, or
 7 who is specifically identified in the document.

8 5.4 Procedures for Approving or Objecting to Disclosure of “HIGHLY
 9 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or Items to Experts.

10 (a) If a Party seeks to disclose to an Expert (as defined in this Order) any
 11 information or item that has been designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES
 12 ONLY” pursuant to Paragraph 4.3(b), then the Party seeking to disclose “HIGHLY
 13 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” information or items to the Expert shall inform
 14 the Party that produced such “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY”
 15 information or items of this fact in writing. The Party seeking to make such a disclosure need not
 16 disclose the identity of the Expert, but must indicate, as appropriate, the general categories of
 17 information or items that will be disclosed to the Expert.

18 (b) A Party that makes a request and provides the information specified in the
 19 preceding paragraph may disclose the subject Protected Material to the identified Expert unless,
 20 within 14 days of delivering the request, the Party receives a written objection from the Designating
 21 Party. Any such objection must set forth in detail the grounds on which it is based.

22 (c) A Party that receives a timely written objection must meet and confer with
 23 the Designating Party (through direct voice to voice dialogue) to try to resolve the matter by
 24 agreement within seven days of the written objection. If no agreement is reached, the Party seeking
 25 to make the disclosure to the Expert may file a motion as provided in Local Civil Rule 7 (and in
 26 compliance with Local Civil Rule 5(g), if applicable) seeking permission from the court to do so.

1 Any such motion must describe the circumstances with specificity, set forth in detail the reasons
2 why the disclosure to the Expert is reasonably necessary, assess the risk of harm that the disclosure
3 would entail, and suggest any additional means that could be used to reduce that risk. In addition,
4 any such motion must be accompanied by a competent declaration describing the Parties' efforts to
5 resolve the matter by agreement (*i.e.*, the extent and the content of the meet and confer discussions)
6 and setting forth the reasons advanced by the Designating Party for its refusal to approve the
7 disclosure.

8 (d) In any such proceeding, the Party opposing disclosure to the Expert shall
9 bear the burden of proving that the risk of harm that the disclosure would entail (under the
10 safeguards proposed) outweighs the Receiving Party's need to disclose the Protected Material to
11 its Expert.

12 (e) Nothing in this Section shall require that the Expert be disclosed to the
13 Designating Party prior to the court-ordered deadline for disclosure. If necessary, any motion or
14 letter to the court shall be redacted so as to not disclose the Expert's name to the Designating Party.

15 5.5 Filing Protected Material. Before filing Protected Material or discussing or
16 referencing such material in court filings, the filing Party shall confer with the Designating Party,
17 in accordance with Local Civil Rule 5(g)(3)(A), to determine whether the Designating Party will
18 remove the confidential designation, whether the document can be redacted, or whether a motion
19 to seal or stipulation and proposed order is warranted. During the meet and confer process, the
20 Designating Party must identify the basis for sealing the specific confidential information at issue,
21 and the filing Party shall include this basis in its motion to seal, along with any objection to sealing
22 the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and
23 the standards that will be applied when a Party seeks permission from the court to file material
24 under seal. A Party who seeks to maintain the confidentiality of its information must satisfy the
25 requirements of Local Civil Rule 5(g)(3)(B), even if it is not the Party filing the motion to seal.
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1 Failure to satisfy this requirement will result in the motion to seal being denied, in accordance with
 2 the strong presumption of public access to the Court's files.

3 6. DESIGNATING PROTECTED MATERIAL

4 6.1 Exercise of Restraint and Care in Designating Material for Protection. Each Party
 5 or Non-Party that designates information or items for protection under this Stipulated Protective
 6 Order must take care to limit any such designation to specific material that qualifies under the
 7 appropriate standards.

8 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
 9 shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to
 10 unnecessarily encumber or delay the case development process or to impose unnecessary expenses
 11 and burdens on other Parties) expose the Designating Party to sanctions.

12 If it comes to a Designating Party's attention that information or items that it designated for
 13 protection do not qualify for protection at all or do not qualify for the level of protection initially
 14 asserted, the Designating Party must promptly notify all other Parties that it is withdrawing the
 15 mistaken designation.

16 6.2 Manner and Timing of Designations. Except as otherwise provided in this
 17 Stipulated Protective Order (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise
 18 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection under this
 19 Stipulated Protective Order must be clearly so designated before or when the material is disclosed
 20 or produced.

21 (a) Information in documentary form: (*e.g.*, paper or electronic documents and
 22 deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),
 23 the Producing Party must affix the word "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –
 24 ATTORNEYS' EYES ONLY" to each page that contains Protected Material. If only a portion or
 25 portions of the material on a page qualifies for protection, the Producing Party also must clearly
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1 identify the protected portion(s) (*e.g.*, by making appropriate markings in the margins) and must
 2 specify, for each portion, the level of protection being asserted.

3 A Party or Non-Party that makes original documents or materials available for
 4 inspection need not designate them for protection until after the inspecting Party has indicated
 5 which material it would like copied and produced. During the inspection and before the designation,
 6 all of the material made available for inspection shall be deemed “HIGHLY CONFIDENTIAL –
 7 ATTORNEYS’ EYES ONLY.” After the inspecting Party has identified the documents it wants
 8 copied and produced, the Producing Party must determine which documents, or portions thereof,
 9 qualify for protection under this Order. Then, before producing the specified documents, the
 10 Producing Party must affix the appropriate legend (“CONFIDENTIAL” or “HIGHLY
 11 CONFIDENTIAL – ATTORNEYS’ EYES ONLY”) to each document that contains Protected
 12 Material.

13 (b) Testimony given in deposition or in other pretrial proceedings: the Parties
 14 and any participating Non-Parties must identify on the record, during the deposition or other pretrial
 15 proceeding, all protected testimony, and specify the level of protection being asserted. When it is
 16 impractical to identify separately each portion of testimony that is entitled to protection and it
 17 appears that substantial portions of the testimony may qualify for protection, the Designating Party
 18 may invoke on the record (before the deposition, hearing, or other proceeding is concluded) a right
 19 to provisionally designate the transcript as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
 20 ATTORNEYS’ EYES ONLY,” and have up to 28 days after receipt of the certified transcript of
 21 the deposition (or hearing or other proceeding) to identify the specific portions of the testimony as
 22 to which protection is sought and to specify the level of protection being asserted. Only those
 23 portions of the testimony that are appropriately designated for protection within the 28 days shall
 24 be covered by the provisions of this Stipulated Protective Order. Alternatively, a Designating Party
 25 may specify, at the deposition or up to 28 days afterwards if that period is properly invoked, that
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1 the entire transcript shall be treated as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL –
2 ATTORNEYS’ EYES ONLY.”

3 Parties shall give the other Parties notice if they reasonably expect a deposition,
4 hearing, or other proceeding to include Protected Material so that the other Parties can ensure that
5 only authorized individuals who have signed the “Acknowledgment and Agreement to Be Bound”
6 (Exhibit A) are present at those proceedings. The use of a document as an exhibit at a deposition
7 shall not in any way affect its designation as “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL
8 – ATTORNEYS’ EYES ONLY.”

9 When a document or other material designated as “CONFIDENTIAL” or “HIGHLY
10 CONFIDENTIAL – ATTORNEYS’ EYES ONLY” is introduced as an exhibit, counsel
11 introducing such exhibit shall advise the court reporter that the exhibit is “CONFIDENTIAL” or
12 “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” pursuant to this Stipulated
13 Protective Order. Transcripts containing Protected Material shall have an obvious legend on the
14 title page that the transcript contains Protected Material, and the title page shall be followed by a
15 list of all pages (including line numbers as appropriate) that have been designated as Protected
16 Material and the level of protection being asserted by the Designating Party. The Designating Party
17 shall inform the court reporter of these requirements. Any transcript that is prepared before the
18 expiration of a 28-day period for designation shall be treated during that period as if it had been
19 designated “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” in its entirety unless
20 otherwise agreed. After the expiration of that period, the transcript shall be treated only as actually
21 designated.

22 (c) Other tangible items: the producing Party must affix in a prominent place
23 on the exterior of the container or containers in which the information or item is stored the legend
24 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” If only a
25 portion or portions of the information or item warrant protection, the Producing Party, to the extent
26 practicable, shall identify the protected portion(s).

6.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to ensure that the information or material is treated in accordance with the provisions of this Stipulated Protective Order.

7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

7.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to challenge a confidentiality designation by electing not to mount a challenge promptly after the original designation is disclosed.

7.2 Meet and Confer. The Parties must make every attempt to resolve any dispute regarding confidential designations without court involvement. Any motion regarding confidential designations or for a protective order must include a certification, in the motion or in a declaration or affidavit, that the movant has engaged in a good faith meet and confer conference with other affected Parties in an effort to resolve the dispute without court action. The certification must list the date, manner, and participants to the conference. A good faith effort to confer requires a face-to-face meeting or a telephone conference.

7.3 Judicial Intervention. If the Parties cannot resolve a challenge without court intervention, the Designating Party may file and serve a motion to retain confidentiality under Local Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable).¹ The burden of

¹ After any Party makes ten challenges to a Designating Party's confidentiality designations, the burden to file a motion shall shift to the Challenging Party for any additional challenges, to avoid abuse of the process. Failure by the Challenging Party to make such a motion shall automatically waive the challenge to each confidentiality designation. The burden of persuasion remains on the Designating Party.

persuasion in any such motion shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other Parties) may expose the Challenging Party to sanctions. All Parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the court rules on the challenge.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," that Party must:

(a) promptly notify the Designating Party in writing and include a copy of the subpoena or court order;

(b) promptly notify in writing the Party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Stipulated Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.²

If the Designating Party timely seeks a protective order, the Party served with the subpoena or court order shall not produce any information designated in this action as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" before a determination by the court from which the subpoena or order issued, unless the Party has obtained the Designating Party's permission. The Designating Party shall bear the burden and expense of

² The purpose of imposing these duties is to alert the interested parties to the existence of this Protective Order and to afford the Designating Party in this case an opportunity to try to protect its confidentiality interests in the court from which the subpoena or order issued.

1 seeking protection in that court of its confidential material – and nothing in these provisions should
 2 be construed as authorizing or encouraging a Receiving Party in this action to disobey a lawful
 3 directive from another court.

4 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

5 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
 6 Material to any person or in any circumstance not authorized under this Stipulated Protective Order,
 7 the Receiving Party must immediately (a) notify in writing the Designating Party of the
 8 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected
 9 material, (c) inform the person or persons to whom unauthorized disclosures were made of all the
 10 terms of this Stipulated Protective Order, and (d) request that such person or persons execute the
 11 “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

12 10. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
 13 MATERIAL

14 10.1 Pursuant to Federal Rule of Evidence 502(d), production of a document or
 15 information subject to a claim of attorney-client privilege, work product doctrine, joint defense or
 16 common interest privilege, or other applicable privilege or protection (“Privileged Material”),
 17 whether inadvertent or otherwise, is not a waiver of privilege or protection from discovery in this
 18 litigation or in any other federal or state proceeding or private arbitration proceeding. For example,
 19 the mere disclosure of Privileged Material in this litigation as part of a mass production is not itself
 20 a waiver of such privilege or protection in this litigation or in any other federal or state proceeding
 21 or private arbitration proceeding, although a Receiving Party reserves the right to challenge the
 22 claim of privilege. The Parties intend this Order to provide the maximum protection against waiver
 23 of privilege available under Rule 502(d) and to override the analysis set forth under Rule 502(b),
 24 subsections (1) through (3).

25 10.2 A Receiving Party notified of a disclosure of Privileged Material must promptly
 26 return, sequester, or destroy the Privileged Material and any copies it has; must not use or disclose

1 Privileged Material until any challenge to the claim of privilege is resolved; must take reasonable
2 steps to retrieve Privileged Material if the Receiving Party disclosed it before being notified; and
3 may promptly present the Privileged Material to the court under seal for a determination if the
4 Receiving Party challenges the claim of privilege.

5 11. NON TERMINATION AND RETURN OF DOCUMENTS

6 Within 60 days after the termination of this action, including all appeals, each Receiving
7 Party must return all Protected Material to the Producing Party, including all copies, extracts, and
8 summaries thereof. Alternatively, the Parties may agree upon appropriate methods of destruction.
9 Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written
10 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)
11 by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected Material
12 that was returned or destroyed; and (2) affirms that the Receiving Party has not retained any copies,
13 abstracts, compilations, summaries, or any other format reproducing or capturing any of the
14 Protected Material.

15 Notwithstanding this provision, counsel are entitled to retain one archival copy of all
16 documents filed with the court, trial, deposition, and hearing transcripts, correspondence,
17 deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work
18 product, even if such materials contain Protected Material.

19 The confidentiality obligations imposed by this Stipulated Protective Order shall remain in
20 effect until a Designating Party agrees otherwise in writing or a court orders otherwise.
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IT IS SO STIPULATED AND DATED this 10th day of May, 2022.

TERRELL MARSHALL LAW
GROUP PLLC

CALFO EAKES LLP

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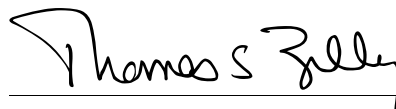
*Attorneys for Plaintiff Railcar Management,
LLC and Third-Party Defendant Wabtec
Corporation*

*Attorneys for Defendants/
Counterclaim Plaintiffs*

1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
3 documents in this proceeding shall not, for the purposes of this proceeding or any other federal or
4 state proceeding, constitute a waiver by the producing Party of any privilege applicable to those
5 documents, including the attorney-client privilege, attorney work-product protection, or any other
6 privilege or protection recognized by law.

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8 DATED: May 24, 2022.

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12 Thomas S. Zilly
13 United States District Judge
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EXHIBIT AACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of
 _____ [print or type full address], declare under penalty of
 perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued
 by the United States District Court for the Western District of Washington on [date] in the case of
Railcar Management, LLC v. Cedar AI, Inc, et al., No. 2:21-cv-00437-TSZ. I agree to comply with
 and to be bound by all the terms of this Stipulated Protective Order and I understand and
 acknowledge that failure to so comply could expose me to sanctions and punishment in the nature
 of contempt. I solemnly promise that I will not disclose in any manner any information or item
 that is subject to this Stipulated Protective Order to any person or entity except in strict compliance
 with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
 Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective
 Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____